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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/499,468	02/07/2000	Ralph Alderson	PF112U1	1320
22195	7590	02/04/2004	EXAMINER	
HUMAN GENOME SCIENCES INC 14200 SHADY GROVE ROAD ROCKVILLE, MD 20850			LANDSMAN, ROBERT S	
			ART UNIT	PAPER NUMBER
			1647	
DATE MAILED: 02/04/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action**

Application No.

09/499,468

Applicant(s)

ALDERSON ET AL.

Examiner

Robert Landsman

Art Unit

1647

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 09 December 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY** [check either a) or b)]

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
  - (b) ☐ they raise the issue of new matter (see Note below);
  - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
  - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_.

3. ☒ Applicant's reply has overcome the following rejection(s): See Continuation Sheet.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_\_.

Claim(s) objected to: \_\_\_\_\_.

Claim(s) rejected: 42-71.

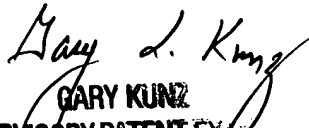
Claim(s) withdrawn from consideration: \_\_\_\_\_.

8. ☐ The drawing correction filed on 09 December 2003 is a) ☒ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_.
10. ☒ Other: See Continuation Sheet

Continuation of 3. Applicant's reply has overcome the following rejection(s): double patenting, 35 USC 112, first paragraph, regarding new matter; 35 USC 102 and 35 USC 103. Applicants have amended the independent claim to recite that the patient has an injury to or a disorder of an eye, said injury or disorder comprising degeneration of a photoreceptor cell. Therefore, neither the patents, nor the prior art have identified this specific population which require treatment with VEGF. The new matter rejection under 35 USC 112, first paragraph, has been withdrawn since Applicants have amended claim 42 to recite that the claimed treatment method is via proliferation of photoreceptor cells.

Continuation of 5. does NOT place the application in condition for allowance because: the claims remain rejected under 35 USC 112, first paragraph, regarding the enablement of the present invention for the reasons already of record on pages 4-5 of the Office Action dated 10/20/03. Applicants have not addressed this issue regarding the fact that the specification does not enable the artisan to treat a patient in vivo, nor have they addressed the issue of whether or not the in vitro model of photoreceptor proliferation is an art-accepted model for in vivo treatment.

Continuation of 10. Other: The Information Disclosure Statements submitted 12/9/03 have been considered. However, the SB-08 reciting the Statutory Declarations will not be printed. Furthermore, reference FY on the 1449 filed 12/9/03 has been lined through since reference to an International Search Report is not a proper citation for a 1449. However, the individual references on this "Report" may be cited on the 1449.

  
GARY KUNZ  
SUPERVISORY PATENT EX  
TECHNOLOGY CENTE